

# State of Connecticut

## DIVISION OF PUBLIC DEFENDER SERVICES

OFFICE OF CHIEF PUBLIC DEFENDER  
30 TRINITY STREET - 4<sup>th</sup> Floor  
HARTFORD, CONNECTICUT 06106

DEBORAH DEL PRETE SULLIVAN  
LEGAL COUNSEL/EXECUTIVE ASSISTANT PUBLIC DEFENDER  
(860) 509-6405 Telephone  
(860) 509-6495 Fax  
[deborah.d.sullivan@jud.ct.gov](mailto:deborah.d.sullivan@jud.ct.gov)

### Testimony of Deborah Del Prete Sullivan, Legal Counsel Office of Chief Public Defender

#### *Raised Bill No. 6384* **An Act Concerning the Registration of Sexual Offenders** **Judiciary Committee Public Hearing** **March 16, 2009**

The Office of Chief Public Defender is opposed to this bill. The testimony of Attorney Christine Rapillo of this Office outlines our reasons for opposition with respect to the proposed registration requirements for juveniles. This testimony concerns those remaining sections of the bill in regard to general registration requirements. As drafted, the proposed legislation places onerous time restrictions which can be difficult if not impossible for indigent and homeless persons to comply with. The bill further expands the sex offender registration requirements to include offenses that have been committed for a non-sexual purpose. As a result of these unrealistic requirements, more people will be arrested for noncompliance and convicted of felonies. Of greater concern is that the unrealistic time requirements will also result in non-registration by persons required to register, thus placing public safety at a greater risk.

**Section 1** - Current law requires that a person who is convicted of C.G.S. §53a-95 or §53a-96, Unlawful Restraint in the First or Second Degree register as a sex offender. This bill classifies the offense as a "Tier Two Offense". This registration requirement will now include teenagers engaged in roughhousing or fighting with each other. A youth restraining another youth who is under the age of 18 and convicted of this offense will be required to register for 25 years.

One suggestion, however, would be to require registration of what the bill classifies as a "Tier Two Offense" **only** when the crime has been committed for "sexual purposes" as defined by statute. Otherwise, families in domestic disputes may continue to be

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unintentionally and unnecessarily impacted. Family members, including brothers and sisters who fight with or restrain each other and have been arrested for unlawful restraint in a non-sexual domestic dispute, will continue to be required to register as Tier Two offenders. Current law already provides the court with the authority to order a person convicted of any felony committed for a sexual purpose to register as a sex offender.

**Sections 2 and 3** - As drafted, the registration time periods under the new tier system classification would apply only to persons convicted on or after the effective date of the bill. However, anyone convicted prior to the effective date would continue to be required to register for life. The disparities in the time periods are huge and range from a potential 10 year registration time period for a person convicted on or after the effective date to life registration for a person convicted previously. While not opposed to the tier classifications or the reduced registration time period, this Office believes, that in fairness, there should be a process for persons convicted previously to apply for the reduced time period if he/she meets appropriate criteria as contemplated for those convicted after the effective date of this bill. By treating all convicted of the same offense equally, confusion is avoided and consistency is acquired.

**Section 5** - This section would require persons convicted of sex offenses in other states to contact the Department of Safety in writing 48 hours prior to entering this state and register if the person remains more than 5 days. The proposal does not articulate how notice will be afforded to an out of state person that he/she must comply with these requirements or be convicted of a class D felony, punishable by up to 5 years in prison. Pursuant to the Constitution, a person is entitled to notice of the fact that certain conduct can result in a conviction. This section lacks language as to how adequate notice would be provided to such person.

**Section 6** - This section provides that if the court finds that any felony was committed for a sexual purpose, it may require a person to register for either 10 years or life. The issue here is that this section is retroactive to include those who may have been required to register for 10 years. Now it appears that the court could expand this registration requirement even if a person was in total compliance with the registration statutes. Further, the proposed legislation lacks any criteria upon which the court is to base its determination.

**Section 7** - This section places onerous burdens on people, which will be difficult if not impossible, for persons to comply with. By requiring persons to appear in person to register within 3 business days of release does not consider indigent persons without transportation, the homeless, or persons with mental health issues. This expectation is unrealistic for persons who are homeless and without financial resources and will result in an increase in the number of arrests for unintentional non-compliance.

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A suggestion would be to permit a person to comply with registration through Department of Correction personnel just prior to or upon release from incarceration. Once released, a person could comply with providing registration information through Board of Pardons and Parole personnel or, if on probation, through Court Support Services Division(CSSD). It is far easier for these agencies who are supervising the person at the time, to communicate the information to the Department of Public Safety. Upon release from custody or supervision, the person could then be required to comply with the registration requirements through Public Safety.

The section also requires a person registering to provide information, including his/her criminal history record, which may be impossible for a person to obtain within 3 days of release from incarceration. The Department of Public Safety has ready access to this information.

Requiring people who are homeless to report every 10 to 15 days sets people up for failure to register. It will result in the incarceration of increased numbers of homeless sex offenders as such persons do not usually have employment or a means of transportation to get to the registration site.

**Section 8** - This is not necessary as the current statutes already provide for the prosecution of persons who obstruct justice or hinder prosecution. This section would require a person to report to law enforcement when he/she has reason to believe a sex offender registrant is not compliant or risk a felony arrest or conviction. This section has the potential of abuse against those persons.

**Section 16** - In regard to this section, this office suggests that language be added to place a 3 year age exception from prosecution when the conduct is consensual. Such an age exception when the conduct is consensual would mirror the language in sexual assault in the 2nd degree.